

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

LINDA P. FARAHANI,

Plaintiff,

v.

Case No. 21-11125  
Honorable Denise Page Hood

COMMISSIONER OF  
SOCIAL SECURITY,

Defendant.

---

**ORDER ACCEPTING REPORT AND  
RECOMMENDATION [#17] AND REMANDING ACTION**

This matter comes before the Court on Magistrate Judge Patricia T. Morris's Report and Recommendation. [ECF No. 17] Plaintiff asks this Court to review the Commissioner's final decision to deny her application disability insurance benefits. The parties filed cross motions for summary judgment. The Magistrate Judge recommends that the Court deny the Commissioner's Motion for Summary Judgment, grant Plaintiff's Motion for Summary Judgment to the extent she seeks remand pursuant to Sentence 4 of the regulations but deny it to the extent she seeks a sentence 6 remand or a reversal and a direct award of benefits. Neither party filed an objection to the Report and Recommendation.

Judicial review of the Commissioner's decision is limited in scope to

determining whether the Commissioner employed the proper legal criteria in reaching his conclusion. *Garner v. Heckler*, 745 F.2d 383 (6th Cir. 1984). The credibility findings of an administrative law judge (“ALJ”) must not be discarded lightly and should be accorded great deference. *Hardaway v. Secretary of Health and Human Services*, 823 F.2d 922, 928 (6th Cir. 1987). A district court’s review of an ALJ’s decision is not a *de novo* review. The district court may not resolve conflicts in the evidence nor decide questions of credibility. *Garner*, 745 F.2d at 397. The decision of the Commissioner must be upheld if it is supported by substantial evidence, even if the record might support a contrary decision or if the district court arrives at a different conclusion. *Smith v. Secretary of HHS*, 893 F.2d 106, 108 (6th Cir. 1984); *Mullen v. Bowen*, 800 F.2d 535, 545 (6th Cir. 1986).

The Court has had an opportunity to review this matter and finds that the Magistrate Judge reached the correct conclusions for the proper reasons. Finding no error in the Magistrate Judge’s Report and Recommendation, the Court adopts the Report and Recommendation in its entirety.<sup>1</sup> Furthermore, as neither party has raised

---

<sup>1</sup>The Court notes that the Magistrate Judge unintentionally made an unfortunate misstatement (typo) in the Report and Recommendation’s Conclusion section when she wrote, “For these reasons, I conclude that substantial evidence supports the ALJ’s decision.” See ECF No. 17, PageID.762. Based on: (1) the fact that the first sentence of the Report and Recommendation is: “Considering the entire record in this case, I suggest that substantial evidence does not support the Commissioner of Social Security’s determination that Plaintiff, Linda Farahani, is not disabled”; (2) the entirety of her analysis; (3) the fact that she repeatedly stated that she was granting Plaintiff’s Motion for Summary Judgment; and (4) because she

an objection to the Report and Recommendation, the Court finds that the parties have waived any further objections to the Report and Recommendation. *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987) (a party's failure to file any objections waives his or her right to further appeal); *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

For the reasons stated above,

**IT IS ORDERED** that the Report and Recommendation [ECF No. 17, filed June 15, 2022] is **ADOPTED** as this Court's findings of fact and conclusions of law.

**IT IS FURTHER ORDERED** that Plaintiff's Motion for Summary Judgment [ECF No. 13, filed December 1, 2021] is **GRANTED IN PART** and **DENIED IN PART**.

**IT IS FURTHER ORDERED** that the Commissioner's Motion for Summary Judgment [ECF No. 15, filed January 5, 2022] is **DENIED**.

**IT IS FURTHER ORDERED** that this matter is **REMANDED** back to the Commissioner under 42 U.S.C. § 405, sentence four, which allows a district court to remand in conjunction with a judgment affirming, modifying or reversing the Commissioner's decision. *Melkonyan v. Sullivan*, 501 U.S. 89, 99 (1991); *Sullivan v. Finkelstein*, 496 U.S. 617, 626 (1990). The Commissioner is to consider and

---

remanded the matter back to the Commissioner under 42 U.S.C. § 405, sentence four, the Court concludes that the Magistrate Judge intended to conclude: "For these reasons, I conclude that substantial evidence does not support the ALJ's decision."

formulate an RFC that adequately accounts for Mr. Misiewicz's opinions, in a manner consistent with the analysis set forth in the Report and Recommendation.

**IT IS ORDERED.**

DATED: July 21, 2022

s/Denise Page Hood

DENISE PAGE HOOD

United States District Judge